

treat all new entrants equally, as is made clear by § 224(g)¹ which requires a utility to impute to itself a pole attachment rate equal to what it would charge a nonaffiliated entity.

SWBT shall modify its outside plant facilities to the extent that the LSP agrees to pay for the modification at a cost, such as but not limited to cable consolidations, as long as such modifications are consistent with capacity, safety, reliability and engineering considerations which SWBT would apply to itself if the work were performed for its own benefit. SWBT shall permit the LSP reasonable access, subject to a non-disclosure agreement and during normal business hours, to its pole and conduit maps and records and also to its cable plat maps, by appointment, on two business days notice. Such access shall include the right to make copies, at the LSP's expense, except for the cable plat maps, which shall be made available for inspection only.

In all instances, such access shall include the ability to take notes and make drawings with references to those maps and records. Make-ready work will be performed by SWBT in an interval consistent with the intervals SWBT performs for itself. If SWBT's interval for beginning or completing make-ready work does not meet the LSP's needs, the LSP, as a qualified contractor, may perform make-ready work itself or utilize subcontractors(s) selected by the LSP from a list of mutually agreeable "bidders" developed by SWBT and the LSP. Additional vendors may be approved by SWBT and the LSP to perform such work in the event the work load exceeds the capacity of the approved list of vendors to perform the make-ready work in a timely manner.

¹In re Implementation of Local Competition Provisions in the Telecommunications Act of 1996, CC Docket 96-98, (Fed. Comm. Comm'n, Aug. 8, 1996) (First Report and Order).

In addition, SWBT should provide LSPs inner-duct installation in a timely manner to accommodate the LSP's space needs in accordance with the time same intervals SWBT provides to itself. All SWBT unassigned inner ducts shall be made available on a nondiscriminatory basis. "Unassigned inner ducts" shall include all inner ducts, sub-ducts or partitioned ducts that are not occupied or assigned (i.e., scheduled to be used within twelve months).

(2) Degree of access:

AT&T and MCI seek unfettered access to SWBT's pathway facilities. SWBT asserts that AT&T and MCI's proposal for unfettered access is administratively unworkable.

SWBT shall provide non-discriminatory access to poles, ducts, conduit systems, without regard to whether the site is located on public or private property. SWBT also shall provide non-discriminatory access to rights-of-way containing CEVs, huts, cabinets and similar structures.

The LSP's ability to construct, maintain and monitor its facilities at these sites shall be no more restrictive than SWBT places on itself. Such access to these sites shall be provided by SWBT in an expeditious manner. (1) The LSP shall first attempt to obtain right-of-way directly from the property owner. (2) Where SWBT has the authority to permit access to a third party right-of-way, SWBT will not restrict the LSP's use of the right-of-way. (3) Where the LSP is not able to gain access to the right-of-way under (1) or (2) above, SWBT agrees to act as the LSP's agent at the LSP's expense in any condemnation proceedings to the extent such a proceeding is required. In addition, SWBT shall make available to the LSP for immediate occupancy any duct, conduit, or pole space that is not currently assigned to an LSP or other entity.

Availability shall be based on space assignment/occupancy records to be maintained by SWBT but which will be made available for viewing by the LSP upon request within two business days notification.

(3) LSP compensation to SWBT for observation of LSP work:

MCI and AT&T contend that a new entrant should not have to pay the costs of having a SWBT employee present to observe work operations at poles, conduits, etc. MCI and AT&T do not oppose the presence of a SWBT employee, however they do oppose paying that employee to be present for AT&T and MCI's work.

The Commission finds that when SWBT considers it necessary to be present during LSP access to manholes and CEVs the following shall apply: SWBT may, at its option, send its employees to review LSP installation, maintenance, and similar routine work. The LSP shall provide SWBT 48 hour prior notice of such work. The LSP and SWBT shall share the cost of a single SWBT employee present during such work on an equal basis (50 percent/50 percent). LSPs shall not compensate SWBT for any additional SWBT employees present.

17. Allocation of Modification Costs

How should the costs of modifications or rearrangements be allocated?

MCI and AT&T request that the Commission's order incorporate the parties' stipulated agreement, both with respect to current inactive/retired cable and prospectively for removal of such cable in the future.

The Commission finds that the parties have partially resolved this issue. LSPs should be allowed to pay SWBT for make-ready work at 50 percent job completion, and the remainder at 100 percent completion.

Therefore, allowing LSPs to pay SWBT in coordination with the same schedule SWBT pays its contractors is reasonable.

In matters concerning retired/inactive cable removal, the parties have reached an agreement. However, MCI and AT&T request that the Commission's order incorporate the parties' stipulated agreement, both with respect to current inactive/retired cable and prospectively for removal of such cable in the future. This is appropriate. Therefore, removal of retired or inactive cables should be as follows, both with respect to current inactive/retired cable and prospectively for removal of such cable in the future.

SWBT agrees to remove cables at its expense that are retired or inactive (dead) to free-up requested duct and pole space, provided such removal is reasonably feasible (i.e., cables pulled easily without incident). If a section of a cable is "frozen" in a duct and would require excavation to remove, the LSP, at its option, may excavate the obstruction or request that SWBT excavate the obstruction. The excavation would be at the LSP's expense; removal of the remainder of the cable would be at SWBT's expense.

18. Pole and Conduit Rates

What are the pole and conduit rates? The parties have resolved the dispute, and proposed rates of \$2.35/pole/year and \$0.40 per duct foot/year for conduit shall be adopted. However, MCI and AT&T believe it is unfair that they should pay SWBT's proposed ancillary fees for administration, billing events, etc. when SWBT imposes no such fees on itself. SWBT's proposed interim master licensing agreement does contain several administrative charges and fees.

SWBT contends that it is offering the aforesaid rates, which are the current rates in effect for cable television systems (CATV), until the FCC completes its review of charges for pole attachments. SWBT contends that to avoid claims of discriminatory treatment, until the FCC's rates become effective, SWBT is willing to charge LSPs the rates which are in effect for CATV systems.

The Commission finds that the parties have partially resolved this issue; the only issue requiring arbitration is SWBT's proposed administrative fees. With regard to SWBT's recovery of costs associated with administrative fees, SWBT shall be allowed to charge administrative fees and shall determine rates for access to poles, conduits, ducts and rights-of-way identical to those applied to CATV providers. When the FCC completes its determination of access to poles and conduits those rates should apply.

19. Directory Assistance and Operator Services Routing

Should SWBT provide customized routing of directory assistance (DA) and operator services (OS) calls from SWBT end offices to an LSP's alternate operator services platform?

AT&T and MCI restate SWBT's offer to perform customized routing and add that customized routing is essential, enabling the combination of AT&T and MCI's proprietary OS and DA services with resold or unbundled SWBT services.

The Commission finds this issue has been resolved.

20. Operator Services and Directory Assistance Branding

Should SWBT be required to brand all directory assistance (DA) and operator services (OS) calls in the name of an LSP where the call originator is an LSP customer?

SWBT is willing to brand where technically feasible. SWBT has reached an agreement in principle with AT&T to attempt to have software, which will permit re-branding without customized routing and a separate trunk group, installed by June of 1997. MCI and AT&T desire unbranding by line operators of OS and DA services in the interim period of software installation.

SWBT will unbrand LSP, OS and DA calls handled by live operators in the interim period of software implementation.

21. Busy Line Verification and Emergency Interrupt Services (BLV and EI)

Shall an LSP be given direct access to provide BLV/EI services? SWBT will offer BLV and EI through their operators. AT&T appears content with SWBT's offer. It is not clear whether MCI has agreed to SWBT's offer. OPC believes BLV and EI should be made available.

SWBT states an agreement in principle has been reached with AT&T under which a SWBT operator, upon receipt of a request from an AT&T operator concerning BLV/EI, will perform this function for SWBT subscriber lines. SWBT contends MCI should also adopt the agreement.

The Commission finds that LSP access to BLV and EI services should be provided as proposed by SWBT. MCI should abide by the agreement in principle which AT&T and SWBT have reached. Interim Rates for BLV/EI shall be the inter-company compensation rates. SWBT shall submit TELRIC studies on these rates within 45 days of the effective date of this order.

22. Operational Support Systems

What types of electronic access to Operational Support Systems (OSS) for pre-ordering, ordering, provisioning, maintenance and repair, and billing should be required?

An agreement in principle has been reached with regard to OSSs between SWBT and AT&T; however, the timing for the complete implementation of electronic interfaces remains an unresolved issue.

The Commission finds that AT&T has reached an agreement in principle with SWBT for this issue; MCI shall adopt the AT&T/SWBT agreement in principle. SWBT must provide real-time interfaces that allow LSPs to perform preordering, ordering, provisioning, maintenance and repair, and billing for resale services and unbundled network elements. These interfaces must be provided on a nondiscriminatory basis, and must be capable of performing the relevant functions in the same time intervals that SWBT performs similar functions for itself. The disputes which remain unsettled are EDI for ordering and provisioning; and operational interfaces and procedural practices regarding: (1) UNEs and (2) notice of new service or changes to existing service.

Where EI/EDI standards are not yet formulated SWBT shall update its OSSs to include the new standards. With regard to the UNE issue, SWBT shall implement electronic interfaces by March 1997 for those UNEs which SWBT has proposed. For the additional UNEs ordered by this Commission, SWBT shall provide the electronic interfaces necessary for the preordering, ordering, provisioning, maintenance and repair and billing by June 1, 1997. SWBT should file monthly progress reports with the Commission that update the progress of implementation. SWBT shall make available via electronic interface notice of new services or changes to existing services in accordance with the time period for notification as set out in Issue 40 herein. Finally, SWBT shall implement a CABS-like² billing system as soon

²CABS is the acronym for Carrier Access Billing System.

as possible after the Order Billing Form (OBF) issues its final CABS release.

23. How should network elements be priced?

The Commission finds SWBT cost studies failed to provide adequate prices for the unbundled elements in an efficient, forward-looking network. In general, these studies utilized unrealistically short economic asset lives, low fill factors, incorrect capital costs and inflation factors, and questionable calculations for the costs of poles and conduits. Where possible, these studies were modified to reflect the costs of an efficient, forward-looking network. The prices generated by the modified studies are interim. At a later date the Commission will adopt a cost methodology to set permanent prices. The modified studies provide prices for the Local Loops for 5db, 8db, ISDN-BRI, and DS-1, cross-connects, and switch port for Analog and ISDN-BRI. Modifications to SWBT's cost studies are described in items (1) and (2). Switch parts and local switching required other modifications as described in item (3).

(1) Modifications to SWBT's Recurring Costs:

(a) **Investment in Poles and Conduits:** SWBT's local loop cost studies were modified so that the investment in poles was not a function of the fill factors. The investment in poles was reduced by about four percent to account for other users such as CATV providers.

(b) **Depreciation Rates:** The SWBT 1994 Company Proposed Rates were used instead of the rates submitted by SWBT. The rates submitted by SWBT used unrealistically short asset lives and low to negative salvage values. During the arbitration hearing, AT&T and MCI introduced SWBT's 1995 10K report to the Securities Exchange Commission. In this report, SWBT stated what the economic lives of assets would be in a competitive

environment. These were different from the rates SWBT included in its cost studies. Therefore, SWBT's submitted rates were rejected. It is important to note that the depreciation rates found in the Company Proposed Rates allow for faster asset depreciation than the Commission had previously ordered.

(c) Cost of Capital: This was changed to 10.03 percent. The rationale for this change was discussed in Issue 3.

(d) Income Tax: Income tax is a tax on profits and should not be considered an operating expense. Therefore, it was eliminated as a cost of the unbundled elements. SWBT stated that the elimination of income tax has the effect of reducing SWBT's statewide average 8dB loop by approximately \$2.00 per month (In re MFS Arbitration Petition with SWBT, Case No. TO-97-23, SWBT's Motion for Clarification, Modification and Rehearing of Arbitration Order, Moore Affidavit, para. 3(B)). Based upon the income tax rate of 38.39 percent that SWBT reported, this would indicate that the statewide average cost of the 8dB loop contained \$5.21 in profits. Based upon SWBT's proposed statewide average rate of \$21.73, this would indicate a profit margin of almost 24 percent. This contradicts SWBT's assertion that TELRIC studies plus a proportionate share of common costs would allow SWBT to recover TELRIC plus a reasonable profit (Moore, Direct Testimony, p. 20), and leads the Commission to conclude that income taxes should not be considered.

Moreover, it is not possible for this Commission to set a price based upon taxes that SWBT will actually pay at some future date. Although the statutory tax rates for corporations are known, the actual taxes that SWBT will pay pursuant to its effective tax rates are unknown.

(e) **Fill Factors:** The fill factor for distribution plant was changed to 50 percent while the fill factor for feeder plant was unchanged. The fill factor for distribution was a compromise on both parties' positions and is a reasonable expectation for fill factors on a forward-looking basis in a competitive environment. The fill factors for feeder were unchanged because the factors proposed by both parties are very similar and those proposed by AT&T failed to consider different cable types.

(f) **Adjustment to Inflation Factors:** The inflation factors were adjusted to reflect a two-year horizon.

(g) **Bad Debt Expense:** In a wholesale environment, bad debt will be reduced or eliminated as the reseller will be responsible for paying SWBT. This reduction in bad debt should be recognized as a reduction in the cost of provisioning the local loop.

(2) **Modification to SWBT's Nonrecurring Costs:**

(a) **Service Order Charge:** The service order charge was eliminated as it was based upon a manual process that required at least 30 minutes to order an unbundled element. As electronic ordering is expected to be implemented in early 1997, this charge was eliminated.

(b) **Installation and Disconnection Charges:** The nonrecurring charges were divided into two separate charges for installation and disconnection.

(c) **Error Resolution:** Error resolution charges that appeared 100 percent of the time were eliminated. It is not realistic to assume that problems will arise 100 percent of the time.

(3) Prices for Switch Ports and Local Switching:

The prices for the ports and the per-minute of use (MOU) rates for analog and DS-1 switching are set to arrive at an effective switch cost of \$0.004 per MOU when the two rate elements are combined. The \$0.004 MOU charges is the maximum FCC recommended default value.

24. How should the unbundled network elements be deaveraged?

SWBT proposed the local loops be deaveraged by exchange into three categories based upon their current rate groups. The table below summarizes the proposed zones.

Proposed Geographic Rate Zones

<u>Current Geographic Zone</u>	<u>Rate Group</u>	<u>Total Access Lines in Primary Service Area</u>
1	C and D	greater than 60,000
2	B	5,000 - 59,999
3	A	0 - 4,999

SWBT contends that these classifications appropriately reflect the factors influencing loop costs like wire center density, size and loop length. AT&T and MCI propose to deaverage rates into six rate groups by wire center based on census block groups, as was done in the Hatfield Model.

The Commission finds it should deaverage into three rate groups by exchange based upon SWBT's deaveraging proposal. SWBT's proposed method for deaveraging by existing exchanges is administratively easier to manage than deaveraging by wire center. Neither party provided sufficient evidence that the zones they propose reflect the actual cost of providing service in that exchange. SWBT's rate groups are based upon existing exchanges while AT&T and MCI's rate groups are based upon characteristics of the census block groups within a wire center. Neither of these deaveraging proposals are based directly upon physical characteristics, such as loop length and density, which reflect the actual cost of providing

service. Since there is no compelling evidence for either position, it is appropriate to adopt SWBT's since it is administratively easier to manage. The Commission may adopt a different method for determining rate zones when it considers permanent prices.

25. How should compensation for interconnection facilities be set?

The parties acknowledge that each carrier should be responsible for delivering its traffic to the other carrier and should furnish interconnection facilities as necessary. If one carrier requests the other to provide all or a disproportionate share of the interconnection facility, then the carrier providing the disproportionate amount of the facility should be compensated.

The Commission finds that this issue appears to be resolved as SWBT, AT&T and MCI have identical positions.

26. Tariffing of Physical Collocation Arrangements

Should SWBT be required to tariff physical collocation arrangements? Physical collocation has existed for years and it is possible for SWBT to develop pricing guidelines and standard terms and conditions so that each new office where physical collocation is requested will not result in a cumbersome or lengthy process. Such terms, conditions and guidelines can be set forth by tariff or incorporated in the Interconnection Agreement. Specific prices per location should be set by ICB pricing completed within 45 days.

The Commission finds that the terms and conditions as well as pricing guidelines shall be submitted to the Commission in a tariff or in an interconnection agreement and SWBT should have a reasonable time in which to respond with prices for individual exchanges.

27. What charges should apply for transport and termination of AT&T's and MCI's traffic?

SWBT proposes to use the results of their late filed TELRIC cost studies for common and dedicated transport. AT&T and MCI propose to use a bill-and-keep mechanism for traffic exchange between the companies for at least the first nine months after the initiation of the passage of commercial traffic between the companies. After the nine-month period, bill and keep should remain in place unless and until a significant and continuing disparity in the levels of traffic terminating on the respective networks can be demonstrated.

The bill-and-keep mechanism assumes balanced traffic between the parties. Insufficient evidence was presented to determine if this is an accurate assumption. Therefore, a compensation arrangement should be used. Traffic should be measured by auditable Percent Local Usage (PLU) Reports.

Because none of the parties presented convincing evidence that their proposed rates were superior, the rates for transport and termination should be set at the corresponding interstate rate that SWBT has on file with the FCC on an interim basis. These rates were restructured by the FCC to be aligned with economic costs and have been under price cap regulation at the federal level.

Compensation for transport and termination should be based upon the facilities actually used by the carrier. If SWBT, by virtue of being the incumbent, only requires the use of end-office switching in terminating a call to a CLEC then SWBT should only pay for the use of the end-office switch.

For purposes of billing, traffic should be measured by auditable PLU reports unless it becomes apparent that the audit process is

insufficient to guarantee accurate billing. SWBT recommended another type of reporting system because of its past dealings with IXCs. SWBT stated that "only after audits were conducted did carriers begin to report on a more accurate basis." This indicates that presently these reports are accurate. Since they will be auditable, they should continue to be accurate.

Because of the costs of alternative billing systems, it is reasonable to use the PLU reports until it becomes evident that the reports and the audit process are, in fact, insufficient to guarantee accurate billing. If problems arise from the PLU reports and the parties cannot agree on another billing mechanism, the parties should report back to the Commission, which will establish an alternate billing arrangement.

The Commission finds that the parties should not use bill-and-keep but instead use a reciprocal compensation arrangement. The rates for transport and termination should be set at the corresponding interstate rate that SWBT has on file with the FCC. Compensation for transport and termination should be based upon which facilities are actually used by the carrier. For purposes of billing, traffic should be measured by auditable PLU reports unless it is apparent that the audit process becomes insufficient to guarantee accurate billing. If problems arise from the PLU reports and the parties cannot agree on another billing mechanism, the parties should report back to the Commission which will establish an alternate billing arrangement.

28. When should local transport and termination charges apply?

The parties agree that local transport and termination charges apply to calls originating and terminating within an exchange and within a mandatory EAS area. The parties disagree about the treatment of calls

originating and terminating within optional EAS areas and EAS areas involving independent LECs.

For optional EAS areas wholly within SWBT territory, SWBT suggests these calls could be treated as IntraLATA toll calls and have SWBT's access rates applied to them. However, SWBT's access rates are not cost based. Using these rates would hinder competition in EAS areas.

For the twelve SWBT exchanges that have mandatory EAS routes with independent LECs, AT&T and MCI must obtain compensation agreements with the independent LECs. The independent LECs were not a party to this case and should not be affected by the results of this arbitration. Until such compensation agreements can be developed, the company's intrastate switched access rates should be used on an interim basis. The intrastate switched access rates are currently used when toll traffic is exchanged between the companies and would be appropriate to use on an interim basis. This will avoid forcing the results of this arbitration on companies not a party to the case. Since neither the CLECs nor the independent LECs will be paying cost-based access rates, they should have an incentive to negotiate more reasonable EAS termination and transport rates. If the parties fail to reach an agreement, then the CLECs may choose not to offer EAS calling plans.

The Commission finds that local transport and termination rates should apply for calls which originate and terminate within an exchange area as well as calls that originate and terminate within a mandatory EAS area. Calls that originate and terminate within optional EAS areas wholly within SWBT territory should be compensated cost-based EAS rates as described below. There is no evidence that the cost of terminating a call within an EAS area is different than the costs of terminating a call within

a local area. Therefore, the EAS termination rate should be the same as the local termination rate decided in this arbitration case. The EAS transport rate should be different from the local transport rate since EAS calls will typically travel a longer distance and may be handled differently than local calls. Until a cost-based EAS transport rate can be developed, the Interoffice Common Transport rates decided in this arbitration should be used. For the twelve SWBT exchanges that have mandatory EAS routes with independent LECs, AT&T and MCI must obtain compensation agreements with the independent LECs. Until such compensation agreements can be completed, the companies switched access rates could be used on an interim basis. Compensation agreements between AT&T and MCI and the independent LECs are not required in a resale environment.

29. Metropolitan Calling Area (MCA) Compensation

How should compensation between SWBT, MCI and AT&T be handled with regard to calls within an MCA?

SWBT contends that if AT&T and MCI do not pay access charges, SWBT will suffer financial losses and "be unable to effectively compete through its MCA offerings." The current bill and keep arrangement would allow AT&T and MCI to offer MCA service to its customers without charging them the MCA additive.

AT&T and MCI believe forcing them to pay usage sensitive charges for a flat rated customer service is inappropriate and they should pay no more than SWBT. AT&T and MCI ask the Commission to require SWBT to disclose its agreements. They propose that reciprocal transport and termination rates be established based on TELRIC studies. Access rates should not apply within established "local calling scopes."

The Commission finds that since the other LECs are not a party to this arbitration, traffic to and from them should be handled by existing switched access rates. CLECs have an incentive to develop individual interconnection agreements with the other LECs in the MCA calling scopes. Charges between SWBT and the competitive companies should be local termination and local transport, not switched access.

30. Switched Access Rates

Should SWBT switched access rates be changed in this proceedings? There is no reason why switched access charges must be addressed in the arbitration. The FCC is committed to access reform in the first half of 1997. Therefore, the Commission finds that switched access rates should not be addressed in this arbitration.

31. What compensation arrangement should be adopted for intermediate transport?

Intermediate transport involves LSPs and independent LECs not a party to this case. For this reason, it is appropriate that AT&T and MCI must obtain compensation agreements with the other LSPs or independent LECs. Until such compensation arrangements can be worked out with the independent LECs, the appropriate intrastate switched access rates should be used. The switched access rates are already used when toll traffic is passed between carriers and represents an existing business arrangement between the companies. Since LSPs and independent LECs would both be paying non-cost based access rates, they all have an incentive to negotiate interconnection rates.

SWBT notes that intermediate transport is defined as the carriage of calls originating on one LSP's network which transit through SWBT's network for termination to another LSP or independent LEC. SWBT proposes to charge a rate of \$.002795 per minute of use. This rate is based upon

SWBT's tandem switching cost. SWBT also proposes that AT&T and MCI must obtain compensation agreements with the other LSPs or independent LECs before SWBT will carry such traffic.

AT&T and MCI maintain that intermediate transport should be provided at rates based upon the Hatfield Model. Further, it should not matter to SWBT what agreement, if any, two LSPs have with each other. The LSP will have their respective agreements with SWBT which cover the pricing and operational aspects of providing intermediate transport. LSPs should also be able to interconnect with each other in a collocated facility and not have to go through SWBT to effect the connection.

The Commission finds that AT&T and MCI should have compensation agreements with the other LSPs or independent LECs before SWBT should be allowed to carry such traffic. Until such compensation arrangements can be made with the independent LECs, the switched access rates should be used. The rate that SWBT charges for intermediate transport should be based upon the rates for the unbundled elements that provide the intermediate transport. AT&T and MCI should be able to directly interconnect with any LSP or independent LEC through a direct interconnection arrangement and not have to go through SWBT to do so.

The rates for intermediate transport must be based upon cost of the unbundled elements that perform the function. If the only unbundled element required for intermediate transport is SWBT's tandem switch, then the rate should be the same as rate for tandem switching. To the extent that intermediate transport involves other network elements, those rates should be included in the intermediate transport rate. This is agreeable to all parties.

32. IntraLATA dialing Parity

Should the Commission address IntraLATA dialing parity in this proceeding? IntraLATA dialing parity requirements and cost recovery mechanisms have been established in a recent FCC order and will also be addressed in TQ-96-135 as well as other current and future state dockets. No action is required in this arbitration.

33. SWBT Branding When Providing Maintenance and Installation for LSPs

Should SWBT be required to brand for AT&T and MCI on maintenance, installation and customer interaction functions other than operator services?

With regard to the issue of "hang tags" or "leave behinds," if SWBT leaves a card with only the SWBT name and logo on it, it may appear SWBT is still the service provider, thus possibly creating confusion.

The Commission finds that SWBT employees should identify themselves as SWBT employees who are performing service on behalf of the customer's provider on maintenance, installation and customer interaction functions. SWBT shall leave behind "hang tags" or cards which inform customers that SWBT was on their premises on behalf of the customer's provider. An example of a generic statement which should be included on the card is as follows: "SWBT has provided repair service on behalf of (the name of the LSP); if you have any questions please contact (telephone number of the LSP)." Blanks should be filled in with LSP name and telephone number for service if it has been provided to SWBT.

34. Should the Commission adopt a charge on local service providers which purchase unbundled local switching in a manner similar to that adopted by the FCC?

Section 720 of the FCC Interconnection Order allowed temporary recovery of the CCL by SWBT. This section of the Order has been stayed but

AT&T and MCI have agreed that it is appropriate for SWBT to continue to recover the CCL until the Court determines otherwise. Because this provision of the order has been stayed, the Commission will not rule on the issue.

35. Services Offered for Resale

What services should SWBT be required to offer for resale? The parties all believe that all services offered to non-telecommunications customers must be offered for resale. The parties have reached agreement on this issue: only the appropriate discount rate remains at issue. This issue has been resolved.

36. Pricing Resale Services

What discount should be available for resale services? All parties herein agree that Educational and Lifeline/Link-Up will be wholesale priced at zero discount.

The range of 13.2 percent to 38 percent resulting from the same study by different parties exposes the intricacies of costing for resale. Decisions have to be made on 58 different cost categories, whether to exclude, include or partially include them, as well as three variations in methods of calculation. Hence the vast range of results. The details of calculation method are in the stayed portion of the Interconnection Order.

The FCC, using publicly available accounting data, provides a presumptive starting place; the cost categories that are presumed avoided and those which are not. A Missouri-specific calculation strictly using the FCC presumed starting point results in a 20.14 percent discount. Two minor adjustments have been made: (1) excluding "negative" costs from being allocated as avoidable, and (2) including bad debt as an avoided cost. The

first changes the discount to 20.56 percent and the second moves that up to 21.61 percent. The calculation method used is the FCC method.

The Commission finds that resale rates can be established using the FCC presumptive calculation methodology with two modifications. SWBT reports a negative cost for the category of general purpose computers. Removing this oddity being allocated to avoidable cost from the accounts, the presumptive FCC methodology results in a 20.56 percent discount. The second adjustment was to consider bad debt 100 percent excluded. This resulted in a final figure of 21.61 percent.

37. Local Service Customer Change Charge

What charge should SWBT charge AT&T and MCI for subscribers changing local carriers? The \$25 fee proposed by SWBT is based on a cost study of mechanical process, not the electronic one being implemented in the near future, and likely before competitive operations begin. If a TELRIC study was done on the electronic ordering, it should result in a much lower cost. A lower charge might be an incentive to SWBT to meet its electronic interface commitment. AT&T and MCI contend the SWBT cost study was characterized by its own witness as "preliminary" and unreviewed and propose as an alternate, the existing \$5 interLATA PIC charge be used in the interim.

The Commission finds this charge should mirror the Interexchange Carrier Primary Interexchange Carrier Charge.

38. Use Limitations on Resold Tariffed Services

What use limitations and conditions should apply to SWBT's tariffed services which are resold by AT&T and MCI? SWBT's proposal presumes all existing tariffed use restrictions apply and must be maintained until otherwise removed. AT&T's and MCI's position presumes

they are invalid, and SWBT must convince the Commission they should be imposed. All parties agree that cross-class-sale (residential to business) restrictions as well as Lifeline and other means tested services restrictions should remain. All parties believe that special consideration be accorded educational offerings, and that BEVS and DLS resale restrictions likewise be observed.

The Commission finds it appropriate to maintain the restrictions on aggregation of toll service for resale. Presume all other restrictions not apply until parties identify and ask explicitly for imposition.

39. Abrogation of Existing Agreements

Should SWBT be required to permit its customers currently under contract to abrogate their contracts in order to accept proposals from AT&T and MCI? Both SWBT and the OPC suggest the Commission does not have the authority to void existing contracts. AT&T and MCI believe the Commission should allow existing customers of SWBT to benefit from competition; a condition that did not exist when the contracts were signed.

The Commission finds that a decision on this issue is not required to dispose of the arbitration.

40. Notice Before Changing/Instituting a Service

Should SWBT be required to provide AT&T and MCI with a 45-day notice before changing the price of an existing service or a 90-day notice before implementing a new service?

Because resale customers need adequate notification of price changes, SWBT should provide notice. There is no rationale for excluding promotions from resale, but perhaps they need not be discounted beyond the promotion. Promotions lasting 90 days or more should be discounted by the

established amount or the promotion amount, at the discretion of the reseller purchasing the service.

The Commission finds that a 30-day notice before tariff filing affecting prices of existing services should be given by SWBT to the competitive company reselling its services. Companies not reselling, but only providing service through unbundled elements need no prior notice other than the tariff filing.

41. Performance Standards

What performance standards should be required?

The Commission finds that SWBT shall maintain services such that the competitive company can meet state service standards. Further, SWBT shall provide the CLECS with at least the same level of service it provides itself.

42. Other Terms of Interconnection

What should be the other terms of interconnection? SWBT has advocated that the parties should take policy decisions of Commission and negotiate interconnection agreements. AT&T requests the Commission adopt the AT&T agreement, subject to reconciliation with Commission decisions. MCI advocates its agreement, subject to reconciliation with Commission decisions.

Any negotiated outcome inevitably rests on the good will and commitment of the negotiating parties. The record reflects that MCI and SWBT were not able to agree to a pre-negotiation non-disclosure agreement. The failure of the parties to negotiate in good faith has brought the arbitration of virtually every detail to the Commission's doorstep. The Commission has dedicated the necessary staff resources to hearing and resolving these issues and hereby encourages the parties to complete the

process by negotiating their final agreements in compliance with this Arbitration Order. The Commission finds no other terms are necessary to complete this arbitration.

III. Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

SWBT, AT&T and MCI are telecommunications companies as defined under Section 386.020, R.S. Mo. (1994), and as such are subject to the Commission jurisdiction as set out in Chapters 386 and 394 of the Missouri Statutes.

The Commission has jurisdiction in this case pursuant to the terms, conditions and requirements set out in the Telecommunications Act of 1996, to be codified at 47 U.S.C.

IT IS THEREFORE ORDERED:

1. That the issues set out by the parties within the Issues Memorandum and at the Arbitration shall be settled consistent with this order. Southwestern Bell Telephone Company AT&T Communications of the Southwest, Inc. and MCI Telecommunications Corporation shall negotiate a final agreement for submission to Missouri Public Service Commission consistent with this order.

2. That all late-filed exhibits are admitted as directed on the record during the arbitration and all objections and motions not previously ruled upon are hereby overruled and denied.

3. That the parties shall use the attached list of interim rates, Attachment A, pages 1-4, pending the development of permanent rates for these elements.

4. That the parties shall comply with the Commission's finding on each and every issue.

5. That this Report And Order shall become effective on the date hereof.

BY THE COMMISSION



Cecil I. Wright
Executive Secretary

(S E A L)

Zobrist, Chm., McClure, Kincheloe
and Drainer, CC., concur.
Crompton, C., concurs, with
concurring opinion to follow.

Dated at Jefferson City, Missouri,
on this 11th day of December, 1996.